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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 INFOSPAN, INC.,
14 Plaintiff,
15 v.
16 EMIRATES NBD BANK PJSC,
17 Defendant.
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Case No. 8:11-CV-01062 JVS (ANx)

Hon. James V. Selna

**DECLARATION OF DANIEL
SCOTT SCHECTER IN SUPPORT
OF *EX PARTE* APPLICATION TO
PROVIDE FURTHER UPDATE TO
THE COURT REGARDING
VISUAL SOURCE SAFE FILES**

1 I, Daniel Scott Schecter, declare and state as follows:

2 1. I am a partner at the law firm Latham & Watkins LLP, counsel of
3 record for Defendant Emirates NBD Bank PJSC (“Emirates Bank” or the “Bank”).
4 I am a member in good standing of the State Bar of California. I have personal
5 knowledge of the facts set forth in this Declaration and, if called as a witness,
6 could and would testify competently thereto.

7 2. On April 7, 2016, I wrote a letter to counsel for InfoSpan, Inc.
8 (“InfoSpan”) confirming delivery of a summary of the relevant contents of the
9 server which had been located (the “VSS Server”). The letter also requested an
10 opportunity to confer with InfoSpan’s counsel at their earliest convenience about
11 logistics for InfoSpan’s review of the meMobile-related files on the VSS Server
12 (the “meMobile Files”), and to arrange for prompt inspection by InfoSpan’s
13 expert(s) in compliance with the Court’s tentative ruling. A true and correct copy
14 of this letter is attached hereto as **Exhibit A**.

15 3. InfoSpan did not respond to the April 7 letter.

16 4. On April 12, 2016, I again wrote to InfoSpan’s counsel and informed
17 counsel that the meMobile Files from the VSS server were available for inspection
18 by InfoSpan’s expert(s) in accordance with the protocol for source code review
19 established by the parties’ Stipulated Order Governing The Designation And
20 Handling Of Confidential Materials (Dkt. 128). In that same letter, I also followed
21 up on a March 31, 2016, email my colleague had sent regarding scheduling the
22 source code production referenced in the Court’s March 11th tentative ruling. A
23 true and correct copy of this letter is attached hereto as **Exhibit B**.

24 5. On April 18, 2016, InfoSpan counsel responded by email to the
25 Bank’s April 12 letter and Emirates Bank’s efforts to arrange an inspection of the
26 VSS server contents. On April 19, 2016, I responded by email to InfoSpan’s April
27 18 email. In my email, Emirates Bank gave notice of this *Ex Parte* Application,
28 and once again requested an opportunity to discuss arrangements for an inspection

of the meMobile Files by InfoSpan's expert(s). I also informed InfoSpan's counsel that a report would be produced today reflecting the meMobile-related files on the VSS server, and encouraging counsel to confer with me regarding the inspection of the VSS server and the source code production referenced in the Court's March 11th tentative ruling. A true and correct copy of this email chain is attached hereto as **Exhibit C**.

6. On April 19, 2016, counsel for InfoSpan stated: “An ex parte application with argument is not necessary to provide the Court with that simple and straightforward update. Such an ex parte application would also ignore the Court’s indication that it would determine how to proceed after the Bank completed the disclosure that is partially set forth in its April 4 filing.”

7. A telephonic conference of counsel to discuss issues regarding the VSS server and source code production referenced in the Court's March 11th tentative ruling is scheduled for April 20, 2016 at 10:00 a.m.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed at Los Angeles, California on April 19, 2016.

/s/ Daniel Scott Schecter
Daniel Scott Schecter